THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.6183 of 2006

DATED:28-03-2006

Between:

Karsam Sailoo and another .. Petitioners

And

The District Collector, Nizamabad

..Respondent

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.6183 OF 2006

ORDER:

The first petitioner is the husband of the second petitioner. Their only son Narsaiah went to Sonapur, Dubai (U.A.E.), to work as Carpenter Assistant in Saleh constructions. While he was in employment, he died. A sum of Rs.2,26,635/- was given towards payment of death compensation. The Consulate General of India, Dubai, by communication, dated 09-02-2005, while informing about the payment for the death of the petitioner's son, placed the funds at the disposal of the respondent. By the impugned notice bearing No.C4/1211/05, dated 07-03-2005, the respondent informed the first petitioner to obtain and produce succession certificate from the Court concerned and receive the payment. Aggrieved by the same, the petitioners invoked the jurisdiction of this Court under Article 226 of the Constitution of India, praying for a direction to the respondent to release the payment of death compensation without insisting upon the succession certificate.

The learned counsel for the petitioners submits that the petitioners herein are the only family members, and therefore, there is no necessity to obtain succession certificate. He placed reliance under Family Member Certificate (FMC) issued by the Panchayat Secretary of Grama Sachivalayam, Yellareddypally. He also placed reliance on the decision of the Supreme Court in **Rukhsana v. Nazrunnisa** in support of the contention that in cases of compensation for death, there is no necessity to obtain succession certificate under the Indian Succession Act, 1925.

Per Contra, the learned Assistant Government Pleader for Revenue opposing the writ petition placed reliance on an unreported judgment of this Court in W.P.No.7430 of 2000, laying down that the revenue authorities cannot decide the question of succession or their legal heirs and that such questions have to be decided by a competent Court of civil jurisdiction.

There is no dispute that the Consulate General of India, Dubai (U.A.E.), sent the payment of death compensation to the District Collector, Nizamabad, for disbursement. It is not the amount which is sanctioned by the Government of Andhra Pradesh or the Government of India, it is the amount which is placed at the disposal of the District Collector as the Head of the Revenue Administration and he holds the amount as a trustee. It is the duty of the District Collector to see that the amount is disbursed to proper persons. While doing so, if the District Collector requires succession certificate from the first petitioner, the same cannot be faulted.

The decision of the Supreme Court in **Rukhsana v. Nazrunnisa** (supra) is not of any assistance to the petitioners. In the said case, the compensation was sanctioned on account of the death of one Mohd. Jalaluddin, who was employed in Kuwait. His widow Rukhsana and some others filed an application before the High Court. There was a rival application filed by the mother of Mohd. Jalaluddin, and therefore, the High Court directed the parties to produce the succession certificate. While remitting the matter, the Supreme Court observed as under.

> The amount involved in this case was not a debt or security to which the deceased was entitled. This was a compensation sanctioned on account of the death of the deceased and is, therefore, not an asset belonging to the deceased but an amount, which the legal representatives of the deceased can claim on their own account. The civil court will only decide as to who are the legal representatives and what shares they are entitled to as per the personal law applicable to them. The parties will move appropriate application before the Court concerned for expediting the procedure regarding disbursement of the amount. With these observations we set aside the impugned order.

The observations made by the Supreme Court would support the view that if there is any dispute as to who are the legal representatives of the deceased, the matter has to be certainly decided by the Civil Court and not by the Officer like the District Collector, who holds the amount in trust. In the unreported judgment, referred to hereinabove, this Court observed that “the question as to who are the legal heirs of the deceased may have to be decided by a competent Court of civil jurisdiction and that it shall be open to the parties to avail such remedies as may be available to them in law”.

In view of the above, this Court does not find any infirmity in the notice issued by the respondent requiring the petitioners to produce succession certificate for claiming the payment of death compensation of late Karsam Narsaiah. Liberty is given to the petitioners to approach the Civil Court for necessary redressal.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

28-03-2006

GJ